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FISH & RICHARDSON P.C.  
225 FRANKLIN STREET  
BOSTON MA 02110

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**OFFICE OF PETITIONS**

In re Application of :  
Hayes et al. :  
Application No. 09/876,563 : DECISION GRANTING PETITION  
Filed: 7 June, 2001 :  
Attorney Docket No. 12587-007001 :  
:

This is a decision on the petition, filed on 20 December, 2004, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioners state that the present nonprovisional application is the subject of a foreign or international application filed on 5 June, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 27 May, 2003. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, showing the projected publication date of 16 October, 2003, was mailed on 8 July, 2003.

This application is being forwarded to Technology Center Art Unit 3625 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

  
Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions